

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicants thank the Examiner for carefully considering this application.

Disposition of Claims

Claims 1-21 are pending in the application. Claim 1 is independent. The remaining claims depend, directly or indirectly, from independent claim 1.

Claim Amendments

Claim 1 has been amended to clarify the invention. Support for the aforementioned amendments may be for example, on p. 3, lines 1-5 of the originally filed specification. No new matter has been added by the aforementioned amendments.

Rejections under 35 U.S.C. § 102

Claims 1, 4, 13-14, and 20-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Pub. No. 2004/0230975 (“Gerwirtz”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).” See MPEP § 2131. Further, when interpreting the claim terms, “[t]he person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term

appears, but *in the context of the entire patent, including the specification.*” *See Phillips*, 415 F.3d 1303 at 1313 (Fed. Cir. 2005) (*en banc*) (emphasis added).

Turning to the claims, amended independent claim 1 requires, in part, (i) a retrievable token which includes: (ii) a physical channel of communication to at least one apparatus, (iii) two logical channels of communication (e.g., first and second logical channels), each associated with the physical channel, (iv) two protocol stacks (e.g., first and second protocol stacks), each associated with one of the logical channels, and (v) two execution environments (e.g., first and second execution environments), each associated with one of the logical channels. Further, claim 1 requires, in part, (vi) that each execution environment is configured to execute one of the protocol stacks. *See*, e.g., Specification, pp. 3-5.

Requirements (i) and (ii)

In rejecting claim 1, regarding *a retrievable token comprising a physical channel of communication to at least one apparatus* (i.e., requirements (i) and (ii)), the Examiner cites “a microprocessor 10 within a typical computer system 12,” as disclosed in Gewirtz, paragraph [0016]. *See* Office Action, p. 3. Thus, the Examiner apparently contends that the claimed *retrievable token* is disclosed by the “microprocessor 10” of Gewirtz, and the claimed *at least one apparatus* is disclosed by the “typical computer system 12.”

Applicants respectfully disagree with the Examiner’s contentions. Specifically, *Phillips* requires the Examiner to read the claimed limitations in light of the Specification. Based on *Phillips* and as clearly described in the Specification, the claim term *retrievable token* refers to “authentication and/or rights containing tokens such as Integrated Circuit Cards which are

introduced in receiving devices.” *See, e.g.*, Specification, page 1, lines 4-6. Further, the Specification provides examples of a *retrievable token*, such as “credit cards, SIM cards, prepaid cards or USB authentication tokens.” *See, e.g.*, Specification, page 1, lines 8-10.

However, contrary to *Phillips*, the aforementioned meaning of the claim term *retrievable token* was not used by the Examiner. Specifically, Gewirtz is silent with regard to the “microprocessor 10” containing any “authentication and/or rights.” Further, Gewirtz is silent with regard to the “microprocessor 10” being an IC card, a credit card, a SIM card, a prepaid card, a USB authentication token, or any similar object. Rather, one of skill in the art will appreciate that a microprocessor is, at best, merely one component which may be included in, e.g., an IC card. Based on the above, Applicants submit that the “microprocessor 10” of Gewirtz clearly does not disclose a *retrievable token* as defined in the Specification. Accordingly, the underlying basis for the Examiner’s rejection is improper.

Moreover, the Examiner has failed to explain which element of Gewirtz is believed by the Examiner to disclose a *physical channel of communication* to the “typical computer system 12” (i.e., the *at least one apparatus*, according to the Examiner) which is included in the “microprocessor 10” (i.e., the *retrievable token*, according to the Examiner), as required by requirement (ii) listed above. In fact, a review of Gewirtz reveals that Gewirtz is silent with regard to any *physical channel of communication* included in the “microprocessor 10.” Accordingly, the Examiner has failed to establish that Gewirtz discloses “each and every element as set forth in the claim.”

Requirement (iii)

Regarding requirement (iii), the Examiner cites “two threads 30 and 32 are running concurrently within an execution element 24 of an out of order microprocessor,” as disclosed in Gewirtz, paragraph [0018]. *See* Office Action, p. 3. Thus, the Examiner apparently contends that the claimed *first and second logical channels* are disclosed by the “threads 30 and 32.”

Applicants respectfully disagree with the Examiner’s contentions. Specifically, Applicants submit that the “threads 30 and 32,” as disclosed in Gewirtz, are not *logical channels of communication*, as required by amended claim 1. Rather, as is known in the art, a “thread” is a “unit of processing,”¹ which is not a *logical channel of communication*.

Further, even assuming, *arguendo*, that the “threads 30 and 32” of Gewirtz disclose the claimed *first and second logical channels of communication*, Gewirtz fails to also disclose requirement (iii) listed above. Specifically, as described above with reference to requirement (ii), Gewirtz fails to disclose a *physical channel of communication to at least one apparatus*. Accordingly, it follows logically that Gewirtz cannot possibly disclose that the “threads 30 and 32” are *associated with a physical channel of communication*, as required by requirement (iii).

Requirement (iv) and (vi)

Regarding the claimed *first and second protocol stacks* (i.e., requirement (iv) listed above), the Examiner cites Gewirtz, paragraphs [0017]-[0018]. *See* Office Action, p. 3. Further, regarding the requirement that each execution environment is configured to execute one of the protocol stacks (i.e., requirement (vi) listed above), the Examiner cites Gewirtz, paragraph [0020].

¹ *See* [http://en.wikipedia.org/wiki/Thread_\(computer_science\)](http://en.wikipedia.org/wiki/Thread_(computer_science))

Applicants respectfully disagree. Specifically, the cited paragraphs of Gewirtz are silent with regard to the claimed *first and second protocol stacks*. In fact, a review of Gewirtz reveals that Gewirtz is entirely silent with regard to any sort of *protocol stack*. Accordingly, Applicants submit that Gewirtz fails to disclose at least the *first and second protocol stacks*, as required by requirements (iv) and (vi).

Requirement (v)

Regarding requirement (v), the Examiner cites “two threads 30 and 32 are running concurrently within an execution element 24 of an out of order microprocessor,” as disclosed in Gewirtz, paragraph [0018]. *See* Office Action, p. 3. Thus, the Examiner apparently contends that the claimed *first execution environment* and the *second execution environment* are disclosed by the “execution element 24.”

Applicants respectfully disagree with the Examiner’s contention. Specifically, Applicants submit that the Examiner’s use of the “execution element 24” of Gewirtz to disclose two distinct claim terms (i.e., the *first execution environment* and the *second execution environment*) is improper. Specifically, according to the doctrine of term differentiation, claims are to be construed to “preserve the patent’s internal coherence.” *Applied Med. Res. Corp. v. United States Surgical Corp.*, 448 F.3d 1324 (Fed. Cir. 2006)(citing *Markman v. Westview Instruments*, 517 U.S. 370, 390 (U.S. 1996)). Further, “in the absence of any evidence to the contrary, we must presume that the use of . . . different terms in the claims connotes different meanings.” *Id* (citing *CAE Screenplates, Inc. v. Heinrich Fiedler GmbH & Co. KG*, 224 F.3d 1308, 1317 (Fed. Cir. 2000)).

Contrary to the doctrine of term differentiation, the Examiner's rejection has the effect of mapping both the *first execution environment* and the *second execution environment* to the "execution element 24" of Gewirtz. Thus, two different terms as recited in independent claim 1 are given the same meaning by the Examiner in making the rejection. Accordingly, the Examiner's rejection is improper.

Summary

In view of the above, it is clear that Gewirtz fails to disclose each and every limitation of independent claim 1. Further, claims 4, 13-14, and 20-21 depend from independent claim 1, and are thus not anticipated by Gewirtz for at least the same reasons. Accordingly, the rejection is traversed, and withdrawal is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 2-3 and 6-12

Claims 2-3 and 6-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gewirtz in view of U.S. Patent Pub. No. 2004/0177215 ("Nagamasa"). To the extent the rejection applies to the pending claims, the rejection is respectfully traversed.

In rejecting dependent claims 2-3 and 6-12, the Examiner relies on Gewirtz as applied to independent claim 1. However, as described above, Gewirtz fails to disclose all the limitations of independent claim 1. Further, Nagamasa fails to supply that which Gewirtz lacks. Specifically, Nagamasa fails to disclose or render obvious at least requirements (i)-(vi) discussed above with regard to independent claim 1. Thus, independent claim 1 is patentable over Gewirtz and

Nagamasa, whether considered separately or in combination. Therefore, dependent claims 2-3 and 6-12 are patentable over Gewirtz and Nagamasa for at least the same reasons.

Moreover, in rejecting claim 2, the Examiner admits that “Gewirtz does not disclose that the retrievable token is a Multi Media Card.” *See* Office Action, p. 5. Rather, the Examiner proposes modifying Gewirtz according to paragraph [0042] of Nagasama, such that “the retrievable token is a Multi Media Card.” *See Id.* Applicants respectfully disagree. Specifically, as described above with regard to claim 1, the Examiner contends that the claimed *retrievable token* is disclosed by the “microprocessor 10” of Gewirtz, and the claimed *at least one apparatus* is disclosed by the “typical computer system 12” of Gewirtz. Accordingly, with regard to claim 2, the Examiner is proposing to modify Gewirtz such that the “Multi Media Card” of Nagasama replaces the “microprocessor 10” within the “typical computer system 12.” However, the Examiner fails to provide any rationale for such a modification.

Further, Applicants submit that a person of skill in the art would not be motivated to make the proposed modification. Specifically, when combining prior art elements, if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *See* *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In this case, a person of skill in the art would appreciate that the proposed substitution of the “microprocessor 10” with a “Multi Media Card” would likely render a “typical computer system” unsuitable for its intended purpose. Therefore, the proposed combination of Gewirtz and Nagamasa is improper.

Accordingly, based on the above, the rejection is respectfully traversed.

Claim 5

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gewirtz in view of U.S. Patent No. 6,883,715 (“Fruhauf”). To the extent the rejection applies to the pending claims, the rejection is respectfully traversed.

In rejecting dependent claim 5, the Examiner relies on Gewirtz as applied to independent claim 1. However, as described above, Gewirtz fails to disclose all the limitations of independent claim 1. Further, Fruhauf fails to supply that which Gewirtz lacks. Specifically, Fruhauf fails to disclose or render obvious at least requirements (i)-(vi) discussed above with regard to independent claim 1. Thus, independent claim 1 is patentable over Gewirtz and Fruhauf, whether considered separately or in combination. Therefore, dependent claim 5 is patentable over Gewirtz and Fruhauf for at least the same reasons. Accordingly, the rejection is respectfully traversed.

Claims 15-19

Claims 15-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gewirtz in view of U.S. Patent No. 6,308,317 (“Wilkinson”). To the extent the rejection applies to the pending claims, the rejection is respectfully traversed.

In rejecting dependent claims 15-19, the Examiner relies on Gewirtz as applied to independent claim 1. However, as described above, Gewirtz fails to disclose all the limitations of independent claim 1. Further, Wilkinson fails to supply that which Gewirtz lacks. Specifically, Wilkinson fails to disclose or render obvious at least requirements (i)-(vi) discussed above with regard to independent claim 1. Thus, independent claim 1 is patentable over Gewirtz and Wilkinson, whether considered separately or in combination. Therefore, dependent claims 15-19

are patentable over Gewirtz and Wilkinson for at least the same reasons. Accordingly, the rejection is respectfully traversed.

Conclusion

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 09669/093001).

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Respectfully submitted,

By /Jonathan P. Osha/
Jonathan P. Osha
Registration No.: 33,986
OSHA · LIANG LLP
909 Fannin Street, Suite 3500
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicants